

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
: BLACKBIRD TECH LLC d/b/a BLACKBIRD :
: TECHNOLOGIES, :
: Plaintiff, : 21-CV-11018 (VSB)
: :
: -against- : **ORDER**
: :
: ARGENTO SC BY SICURA INC., :
: :
: Defendant. :
: X

VERNON S. BRODERICK, United States District Judge:

On April 1, 2022, Defendant filed a motion to dismiss in part the original complaint filed in this action. (Doc. 15.) On April 11, 2022, Plaintiff filed a First Amended Complaint (“FAC”). (Doc. 12.) When a plaintiff amends the operative complaint “after a defendant has filed a motion to dismiss that is still pending, the district court has the option of either denying the pending motion as moot or evaluating the motion in light of the facts alleged in the amended complaint.” *Pettaway v. Nat'l Recovery Sols., LLC*, 955 F.3d 299, 304 (2d Cir. 2020).

Accordingly, it is hereby

ORDERED that by May 9, 2022, Defendant shall file either (i) a letter stating that it wishes me to consider its pending motion to dismiss as one to dismiss the FAC; or (ii) an answer or motion to dismiss specifically in response to the FAC.

SO ORDERED.

Dated: April 25, 2022
New York, New York


VERNON S. BRODERICK
United States District Judge